

**Draft Summary of Cultural Resources Work Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
April 17, 2001**

The Department of Water Resources (DWR) hosted the Cultural Resources Work Group meeting on April 17, 2001 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary of the discussion for information purposes for interested parties who could not attend the meeting.

Introduction

Attendees were welcomed to the Cultural Resources Work Group meeting. The Cultural Resources Work Group Meeting agenda and a list of meeting attendees and their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip chart notes are included as Attachment 3.

Action Items – March 27, 2001 Cultural Resources Work Group Meeting

A summary of the March 27, 2001 Cultural Resources Work Group is posted on the project web site. The Facilitator reviewed the status of action items from the March 27, 2001 Cultural Resources Work Group meeting as follows:

- Action Item #C1:** Bring Bulletin 38 to the next Cultural Resources Work Group meeting.
Status: Bulletin 38 Guidelines for Evaluating and Documenting Traditional Properties was distributed to the Cultural Resources Work Group. Helen McCarthy of the consulting team reported that Bulletin 38 was developed to better evaluate and document traditional cultural properties. She added that Bulletin 38 recognized that traditional properties are important to the native community, and are often described only through oral histories.
- Action Item #C2:** Provide update to Cultural Resources Work Group regarding the storage of artifacts and remains currently held by the State.
Status: Bob Orlins from DWR updated the Cultural Resources Work Group on the status of artifacts and remains removed during the Oroville Facilities construction period and currently held by the State. Bob stated that there were six collection sites from the construction of the dam and ancillary facilities, two sites within the FERC boundary, and one site associated with the construction of the new railroad grade. He added that 157 human remains were found above the dam, and 15 below. All remains as well as other artifacts are being stored in a secure, temperature-controlled environment in West Sacramento. Some of the remains have been identified. Tribes can formally claim the identified remains and if desired, leave them in the care of the State until the tribes are ready to take possession.
- The group discussed Section 106 process and the repatriation of all human remains currently being stored by the State. There was concern expressed regarding the repatriation of remains to unrecognized tribes. Bob Orlins stated that repatriation does not only apply to the federally recognized tribes.
- DWR agreed to provide the Cultural Resources Work Group with an inventory of reports prepared to date regarding the stored remains. DWR also agreed to evaluate options for repatriation.
- Action Item #C3:** Provide a copy of Section 106 of the National Historic Preservation Act to the document repository and to participants upon request.

Status: Copies of Section 106 should be available to the document repository within the next two weeks. Section 106 can be viewed at www.achp.gov. A discussion of Section 106 is included in the meeting agenda.

Action Item #C4: Consultants to draft Issue Statements based on issues and interests described to date for review and comment at the next Cultural Resources Work Group Meeting.

Status: A discussion of draft issues statements is included in the meeting agenda.

- Bob Orlins mentioned that he had been in communication with Bob Thorne of the University of Mississippi regarding the preservation of cultural sites in place. This would help reduce the instance of destruction, vandalism, and looting at cultural sites in and around the project facilities. This is of particular concern during periods of low water when sites that are usually inundated are accessible. The group generally agreed that strategies for protecting sites would be helpful information for the Cultural Resources Work Group and that Bob should continue contact with Thorne.

Educational Presentations

FERC Approach to Cultural Resources

Frank Winchell from FERC briefly outlined the Commission's policies and approach to cultural resources during the relicensing process. He stated that the ALP was particularly useful in preparing an effective and comprehensive Cultural Resources Management Plan (CRMP). Frank mentioned that the CRMP would provide for surveys and evaluation of cultural resources, including traditional cultural properties, and define the studies' Area of Potential Effect (APE). The CRMP would also include treatment and repatriation of human remains and other artifacts. He outlined how he sees the Cultural Resources Work Group proceeding: 1. Identify the studies that are necessary for the relicensing process (i.e. repatriation of human remains, cultural surveys, Traditional Cultural Resource review, etc.), 2. Execute the studies, 3. Evaluate the information, and 4. Develop the CRMP.

- The Cultural Resources Work Group discussed the Section 106 Process, and how only recognized tribes are mentioned in the legislation. They questioned how the Process applies to unrecognized tribes. Frank responded that unrecognized tribes access the 106 Process as Interested Persons. He added that the Native American Heritage Commission also helps with discussions between recognized and unrecognized tribes. He mentioned there is nothing in the ALP that prohibits unrecognized tribes from full participation in the consultation process. He added that DWR is consulting on behalf of FERC for the 106 Process, and stressed that this is an inclusive process and participants should concentrate on collaboration not on the legislation. Greg Elvine-Kreis representing the Mooretown Rancheria mentioned that the recognized tribes have already stated that they wish to participate with the unrecognized tribes during the relicensing negotiations and Lorraine Frasier of Mooretown Rancheria added that she hoped everyone, including representatives of other cultures from the area will take part in this Work Group.
- Several participants asked if there were actions that could be taken by the Cultural Resources Work Group through recommendations to the Plenary Group prior to the issuance of the new license. Frank responded that it would depend on the provisions in the current license. He agreed to review the current license for cultural resources provisions and report to the Cultural Resources Work Group at their next meeting.
- The Cultural Resources Work Group also questioned whether DWR has always been in compliance with the Cultural Resources provisions of the current license. Frank agreed to check on the DWR compliance record and report back to the Cultural Resources Work Group at their next meeting.

Section 106 of the National Historic Preservation Act

Steve Heipel of the Consulting Team provided the Cultural Resources Work Group with a brief overview of Section 106 of the National Historic Preservation Act (NHPA). Section 106 states in

part that, *“The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds or the undertaking prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation (ACHP) established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking (16 USC 470f).”*

Steve added that the codes implementing Section 106 (36 CFR 800) could be found at www.achp.gov/regs.html. He also said that an ACHP publication, Protecting Historic Properties: A Citizen’s Guide to Section 106 Review, would be useful to Cultural Resources Work Group participants and was available at the same web site.

- One participant wanted to know if Section 106 applied to federal land only. Steve responded that the law applied to federal land, or any land where a federal permit (e.g. a FERC license) was required.

Steve provided the definition of the Area of Potential Effect (APE): *“The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”* He added that determining the APE would help the Cultural Resources Work Group determine where to focus the survey for cultural resources, what effect the proposed action might have on those resources, and determine appropriate mitigation.

- One participant asked what would happen if DWR makes no operational changes as part of the relicensing process. Steve responded that the Area of Potential Effect (APE) would not change if there were no changes in facilities operation. However, he added that we might want to have the APE coincide with the FERC boundary to provide an opportunity for a broader perspective and potential to develop a more flexible and implementable plan.

Collections

Michael Delacorte of the Consulting Team provided the Cultural Resources Work Group with information regarding artifact and human remains collections, cataloging and protection techniques. He likened the preservation of historic sites and artifacts to ESA, except the object is a cultural resource. He added that there are different types of historic resources, spiritual or religious, art or engineering, important people or events. Additionally a resource can have cultural value because of what it can teach us about the past.

A variety of factors have to be considered when determining what resources are important, and how you will protect them. Some information regarding resources can be handed down by elders, or can be determined by archeological remains left behind. He added that a number of sites survived the construction of the dam, while other resources are being housed by the State. The existing collections can give us more information now than 40 years ago due to improvements in a number of analytical tools and techniques such as obsidian hydration dating. Using these improved analytical techniques, researchers can determine how old an artifact is, how it was used, and where it came from.

Historic Properties

Adrian Praetzellis of the Consulting Team provided the Cultural Resources Work Group with additional information regarding historical archaeology. His overview included methods for preserving physical remains and historic sites (18th century to present, APE determination), and the

designation of historically significant buildings and structures. Adrian pointed out that when the dam was built very few sites in the area were recorded as historically significant. The NRHP standard for designation as a historic location is at least 45 years old. That means the dam and the facilities built in the late 50's and early 60's almost qualify for historic designation. Adrian mentioned that under new criteria there could be hundreds of sites within the project boundary. These sites could be small (e.g. can dump or homestead), or larger (mining complex, cemetery, trail). He outlined various techniques to find culturally significant sites including local and county records searches, historic maps, oral histories and interviews. Once basic information has been developed, on the ground surveys are done to determine what if anything still exists in the field. He emphasized that once sites have been found each site is recorded. Once recorded, the resources have to be evaluated to determine if they are significant (using NRHP criteria). Then decisions have to be made as to what treatment should be applied for resource protection. Once all the resources are evaluated, a CRMP can be developed. The CRMP is important because it sets policies for future resource evaluation, treatment, and protection.

- The Cultural Resources Work Group discussed the displacement of native sites that are not in the APE and non-tribal culture sites (e.g. Chinese or African-American) that are significant. Frank Winchell responded that an inventory of potentially significant resources will be done, and then a field survey. Adrian added that the team plans to spend a lot of time with local tribes and others who may have an established oral history of the area.
- One participant asked if surveys could be done without excavating artifacts or physical remains. Frank responded that Section 106 was established to identify, not necessarily disturb. He added that data recovery does not have to be invasive, and the Cultural Resources Work Group would have a significant role in determining how cultural resources are handled.

Issue Statement Development and Further Identification of Issues

At the last Cultural Resources Work Group meeting, the consulting team was tasked with developing Issue Statements based on cultural resources issues and interests identified by all sources to date. Steve Nachtman described the Issue Statements as an integral part of the scoping document (required by NEPA) that drive the process from the Work Groups issues and interests to a resource management plan, and ultimately to the development of settlement agreements. Issue statements begin the process of finding out what information is needed during the study phase of the relicensing effort. The Cultural Resources Work Group received a copy of the draft Issue Statements, including the issues and interests used to develop the Statement. The Draft Issue Statements are appended to the summary as Attachment 4.

The Cultural Resources Work Group discussed each Issue Statement and agreed to the following drafts.

CR1: Determine nature, distribution and value of cultural resources (including archaeological sites, historic resources, and traditional use areas) within the Area of Potential Effect.

CR2: Evaluate the need and method to provide protection of cultural resources (including archaeological sites, historic resources, and traditional use areas) within Area of Potential Effect.

CR3: Determine the effects of existing and future project facilities, including existing and future recreational facilities, operations and maintenance, and land use on cultural resources within the Area of Potential Effect.

CR4: Provide for interpretation of cultural resources and availability of data relative to the Oroville project area.

CR5: Provide opportunities and compensation for cultural resources involvement. (Group agreed this is probably a goal statement.)

- The Cultural Resources Work Group recognized a number of issues that were affected by land use and land management decisions and the need to coordinate issues common to several other Work Groups. The Facilitator mentioned that a task force could be used to focus on specific issues, including ones that need to be integrated with other Work Groups. She suggested the Group might consider this at some point.
- Craig Jones of the State Water Contractors suggested that issue number 46 regarding staffing a full time archeologist to the area should have its own issue statement or could be a resource goal in CR 2. The group discussed how the number of Issue Statements could be compressed or expanded and still achieve the same goal of identifying what should be considered.
- The consulting team agreed to revise the issue statements and review them with the Cultural Resources Work Group at the next meeting. One participant asked if that review could be moved to an earlier part of the agenda to allow plenty of time for review. The Cultural Resources Work Group agreed to address it first.

Homework

Cultural Resources Work Group participants agreed to review the issues list and provide comments or new issues at their next meeting.

Next Meeting

The Cultural Resources Work Group agreed to meet again:

Date: Tuesday, May 22
Time: 6:00 to 10:00 p.m.
Location: Berry Creek Rancheria

The Cultural Resource Work Group meeting adjourned at 10:00 p.m.

Agreements Made

1. The Cultural Resources Work Group agreed to review revised draft Issue Statements developed by the Consulting Team at their next meeting.
2. The Cultural Resources Work Group agreed to review the list of issues distributed to them and provide comments or revisions at their next meeting.
3. The Cultural Resources Work Group agreed to meet again on May 22, 2001 from 6 to 10 p.m., at the Berry Creek Rancheria.

Action Items

The following list of action items identified by the Cultural Resources Work Group includes a description of the action, the participant responsible for the action, and item status.

Action Item #C5:	DWR to determine what reports have been done and what is incomplete regarding existing collections.
Responsible:	DWR Staff
Due Date:	May 22, 2001
Action Item #C6:	Evaluate options for repatriation of stored physical remains and artifacts.
Responsible:	DWR staff
Due Date:	May 22, 2001

- Action Item #C7:** Initiate preliminary discussions with Bob Thorne regarding strategies for in place protection of cultural sites.
Responsible: DWR staff and Consulting Team
Due Date: May 22, 2001
- Action Item #C8:** Regarding actions that could be taken prior to the issuance of the new license: review the current license for cultural resources provisions
Responsible: FERC Staff – Frank Winchell
Due Date: May 22, 2001
- Action Item #C9:** Check on the DWR compliance record as it pertains to cultural resources.
Responsible: Consulting Staff and FERC (Frank Winchell)
Due Date: May 22, 2001
- Action Item #C10:** Provide copies of 36 CFR 800
Responsible: Consulting Staff
Due Date: May 22, 2001
- Action Item #C11:** Provide revisions to Issue Statements and draft Resource Goals for distribution and review at the next Cultural Resources Work Group meeting.
Responsible: Consulting Staff
Due Date: May 22, 2001